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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 48th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 April 1998, at 10 a.m.

Chairman: Mr. GALLEGOS CHIRIBOGA (Ecuador)
(Vice-Chairman)

later: Mr. SELEBI (South Africa)
(Chairman)

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In the absence of Mr. Selebi (South Africa), Mr. Gallegos Chiriboga (Ecuador), Vice-Chairman, took the Chair.

The meeting was called to order at 10 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

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1. Ms. KABAMBA (Democratic Republic of the Congo), replying to the statement by the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, asked why the Special Rapporteur's report (E/CN.4/1998/65), dated 30 January 1998, had been circulated only one day before its presentation to the Commission and why her Government's note verbale (E/CN.4/1998/149), dated 10 March 1998, had been circulated only two days previously. She strongly recommended the members of the Commission to take note of the review contained in the latter document of the situation inherited from the previous regime and of the current Government's human rights activities.

2. The tone of the Special Rapporteur's report was very aggressive. He failed to give due weight to the socio-economic and political context, which necessitated urgent and courageous action to restore public order and security, and seemed to imply that President Kabila was following in the wake of his predecessor. As all objective observers acknowledged, the era of impunity was drawing to a close and perpetrators of human rights violations were being punished under both judicial and administrative procedures. Galloping inflation had been reduced through fiscal discipline to acceptable proportions and practical action had been taken to promote the economic independence of women so that they could become involved in reconstruction.

3. Her Government did not assert that the human rights situation was unblemished but most of the allegations against it were unsubstantiated or came from unreliable sources. It was resolutely pursuing a policy of promoting human rights in cooperation with the Kinshasa Office of the High Commissioner for Human Rights and she invited the Commission and the international community to recognize and support those efforts.

4. Mr. LALLAH (Special Rapporteur on the situation of human rights in Myanmar), introducing his report (E/CN.4/1998/70), said that the Myanmar authorities continued to deny him permission to enter the country, having dissociated themselves from the Commission's decision to appoint a Special Rapporteur. He had analysed that position and shown it to be untenable in paragraphs 7 to 11 of his first interim report to the General Assembly (A/51/466). Those authorities had likewise failed to comply with Commission

and General Assembly resolutions adopted over the past two years calling on them to cooperate fully with him and ensure his access to Myanmar without preconditions. They had, however, indicated that a visit would be possible at a mutually convenient or appropriate time and he earnestly hoped that such a time would soon be found.

5. A number of positive developments had occurred during the previous year. Myanmar had ratified the Convention on the Elimination of All Forms of Discrimination against Women. Order No. 1/97 had commuted death sentences and reduced the term of imprisonment for certain offences. It was unclear, however, whether the Order applied to political prisoners and he was unable to say how many prisoners had benefited. A few colleges and universities had reopened but educational activity was still at a low ebb.

6. The political activities of the representatives elected by the people of Myanmar in 1990 continued to be severely restricted. The denial of the exercise of political rights remained the root cause of the most grave human rights violations. An exploratory meeting to initiate a political dialogue between representatives of the military regime and some representatives of the National League for Democracy (NLD) had taken place in July 1997, but a scheduled follow-up meeting in September 1997 had not materialized. In November 1997, the State Law and Order Restoration Council (SLORC) had reconstituted itself as the State Peace and Development Council (SPDC). Representatives of the regime had met some NLD representatives the following month, but there were no indications of any progress towards a genuine political dialogue or the early establishment of democratic governance.

7. The pattern of human rights violations continued: criminalization of political activity, harassment of political leaders, arbitrary arrests and detention on political grounds, and severe restrictions on freedom of expression, association and movement. Forced labour continued to be practised throughout the country. In ethnic areas, forced displacement continued in connection with development projects and counter-insurgency operations. Extrajudicial, summary and arbitrary executions, torture, and abuse of women and children were said to be common practices in some areas, resulting in persistent flows of refugees to neighbouring countries.

8. U AYE (Observer for Myanmar) drew attention to the positive developments in Myanmar mentioned in the Special Rapporteur's report (E/CN.4/1998/70), such as the positive interaction between the authorities and legally constituted political parties, cooperation with United Nations human rights bodies, commutation of death sentences and reduction of terms of imprisonment and ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

9. In general, however, the report lacked balance because it was based primarily on misinformation provided by sources hostile to the Government and either dismissed or dealt only cursorily with the information given by authoritative sources. The fact that the Special Rapporteur had been unable to visit the country in no way justified the ritual repetition of a litany of unproven allegations. A visit had not yet been authorized because the unjust

portrayals of the situation in Myanmar contained in previous reports had led the authorities to question whether such exercises were truly conducive to the promotion of human rights.

10. The current transitional Government in Myanmar was committed to building a peaceful and prosperous multi-party democracy and was encouraging numerous legally constituted political parties to function in an orderly manner. It was only when individuals or political parties transgressed legal bounds and threatened peace and security that the Government was compelled to intervene. In that connection, he drew attention to his delegation's note verbale (E/CN.4/1998/150).

11. The successes achieved by the Government in enforcing the right to development had not been mentioned in the Special Rapporteur's report. For example, it had successfully persuaded many armed groups, except one with which it was still negotiating, to return to the legal fold. Those groups were currently developing their respective areas for the benefit of their communities.

12. His Government was determined to prevent all forms of infringement on its country's sovereignty while continuing to interact with the United Nations in promoting and protecting human rights. He pointed out that senior government officials had been engaged in a productive dialogue with the Secretary-General and his representatives.

13. Mr. Selebi (South Africa) took the Chair.

14. Mr. BÍRÓ (Special Rapporteur on the situation of human rights in the Sudan), introducing his report (E/CN.4/1998/66), said that he had visited the Sudan from 2 to 10 September 1997 and had continued to receive detailed information on all categories of human rights abuses until the date of finalization of his report, namely, 13 December 1997.

15. The overall human rights situation had not improved and there had been a significant deterioration in some areas, particularly in the humanitarian situation, the situation of women and children, restrictions on freedom of religion and atrocities committed against religious communities by government agents or sympathizers.

16. In the southern Sudan, hundreds of thousands of people were starving and aid efforts were hampered by government insistence that all aid flights should be cleared a month in advance. Although the ban on flights to certain locations had recently been lifted, aid workers had described the move as too little and too late. According to some estimates, about 1.6 million people could face famine until the summer of 1999.

17. The Government's conscription drive in the north continued to create serious frustration among the population. Most of the conscripts were students, and poorly trained units of new recruits had reportedly been sent to the battlefield. A particularly notorious incident involving 50 women protesting peacefully against the forced conscription of their male relatives was described in paragraph 42 of the report. The answer received from the Government of Sudan to an appeal signed by four of the Commission's special

rapporteurs had been completely inadequate. A few days previously, some Khartoum newspapers had reported that 52 student conscripts had been drowned on 2 April 1998 while trying to flee a military camp outside the capital. That figure had been given by the Government, though reports by opposition groups put the number of the dead at 260.

18. While certain positive developments in the Government's relationship with the Special Rapporteur were to be welcomed, it should be borne in mind that such cooperation was but one aspect of the complex and sensitive human rights situation. In recent weeks, the Government had met representatives of the Office of the High Commissioner for Human Rights to begin assessing ways of improving communication, the flow of information, independent verification of reports of human rights violations, technical assistance and monitoring.

19. Preliminary findings indicated that there was a genuine opportunity to achieve practical results in at least some of those areas and his report contained a number of recommendations in that regard. As that was a process that called for specific skills and a different approach from the one he had adopted, he had decided to conclude his work as Special Rapporteur and wished every success to the new incumbent of the post.

20. Mr. IDRIS (Sudan) said that the conclusions and recommendations of the report of the Special Rapporteur on the human rights situation in the Sudan (E/CN.4/1998/66) were not warranted by the facts on the ground and that the alleged human rights violations related to the broader context of the armed conflict in the south of the country.

21. His Government's efforts to resolve the conflict had led to the conclusion of the Sudan Peace Agreement in April 1997 with all rebel factions except that of John Garang. The Agreement granted the right to self-determination and freedom of religion and belief; the Sudan was recognized as a multiracial, multi-ethnic, multicultural and multi-religious society; Shari'a and custom were to be sources of legislation; provision was made for human rights and freedoms, including democracy and independence of the judiciary; wealth and power were to be shared, with special allowances for the south.

22. In an effort to persuade the Garang faction to join the peace process, the Government had recently accepted the Declaration of Principles formulated by the Inter-Governmental Authority on Development (IGAD) in 1994 as a basis for negotiations. A further round of talks with the faction was scheduled for the end of April 1998 and the Government had called a ceasefire to ensure that they took place in a congenial atmosphere.

23. Following the dissolution of the Revolution Command Council and the appointment of a Transitional National Assembly, free and fair presidential and parliamentary elections had been held in 1996. A new draft constitution containing a comprehensive bill of rights was to put to a referendum on 26 April 1998.

24. The government-appointed Special Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery had submitted two reports to the Special Rapporteur refuting all allegations of slavery and

disappearances. The Special Rapporteur had been given the opportunity to investigate slavery and related practices in September 1997 and the Chairperson-Rapporteur of the Working Group on Contemporary Forms of Slavery had been invited to visit the country. Human rights activists from abroad had also been allowed to conduct investigations.

25. The Special Rapporteur welcomed the establishment by the Government of a number of sub-committees to deal with different categories of allegations of human rights violations (para. 51), developments regarding the issue of street children (para. 65) and the efforts to improve communication between the Government and the Office of the High Commissioner (para 69). It was hardly accurate of him to conclude, therefore, that the human rights situation had not improved. The Commission should thus disregard all references to violations of human rights in the report unless the evidence was also given.

26. The Special Rapporteur had overstepped all bounds in accusing the Sudanese Government (para. 35) of supporting the Lord's Resistance Army (LRA) on the basis of "well-founded reports" which he did not trouble to identify. The Government held the Special Rapporteur fully responsible for that political statement and its implications. The Government condemned the abduction of children from northern Uganda by the LRA. The United Nations Children's Fund (UNICEF) had acknowledged with gratitude its assistance in returning some of those children to their homes in Uganda.

27. Human rights violations occurred in the Sudan, as elsewhere. The crucial question was how the Government responded. In one recent case, six police officers accused of torturing a person to death had been tried, found guilty and sentenced to death. In another case, the High Court had recently quashed the convictions and sentences of two political detainees. Those two examples alone gave the lie to the Special Rapporteur's assertion that the human rights situation had not improved.

28. His delegation called for technical assistance to maintain the momentum of those improvements, since scarce resources were the Government's main handicap. The Commission had recognized the need for such assistance as early as 1991, but none had been forthcoming. The requests for technical assistance needed an urgent positive response and, in the meantime, the Special Rapporteur should realize that repeating the same report year after year was not the best way to build a country's human rights institutions.

29. With respect to the incident on 2 April 1998, when 52 conscripts had died while escaping from their training camp near Khartoum, he wished to inform the Commission that a committee of inquiry had concluded that the cause of death had been drowning, when an overloaded boat had capsized in the Blue Nile, and not, as alleged in some circles, being shot in the back by camp guards.

30. Mr. KRYLOV (Russian Federation) said that the designation of 1998 as Human Rights Year had given his country the opportunity to address some outstanding issues, not least the inculcation of a broader human rights culture in Russian society. One of his Government's main concerns was the

fate of the millions of Russians living outside the country and it would do its utmost to protect their rights. It was to be hoped that the international organizations would pay continuing attention to the issue.

31. His delegation was concerned at the human rights situation in the States of the Former Yugoslavia. The High Commissioner and the international community should do more to ensure that human rights became an integral aspect of political and social culture in all those new countries, particularly Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia.

32. His delegation supported a political settlement of the question of Cyprus on the basis of that country's territorial integrity. It was regrettable that there had been no progress and, in some respects, even a deterioration in the situation. Of particular concern were the restrictions on freedom of movement in the north of the island, the violation of Greek Cypriots' ownership rights and the fact that the issue of missing people had not been resolved. Both sides should be constructive and show good will. All United Nations resolutions on the question of Cyprus should be complied with as a matter of urgency.

33. After many years of internecine war, Afghanistan still gave cause for concern. The situation threatened to destabilize the whole region. Gross violations of human rights and increasing discrimination, particularly against women and girls, were largely, it seemed, perpetrated by the Taliban. The country's future could not be decided by war. All sides should engage in dialogue, of which human rights should be an integral part. His Government was prepared to continue providing humanitarian aid for the suffering people of Afghanistan and urged all parties, particularly the Taliban authorities, not to hinder the delivery of supplies or jeopardize in any way the safety of humanitarian workers.

34. Despite the efforts of the international community, the situation in the Great Lakes region of Africa remained critical. The human rights situation would depend largely on how the problem of impunity was dealt with. The Human Rights Field Operation in Rwanda (HRFOR) should step up its efforts and the Government of Rwanda should make the fullest possible use of its potential for strengthening the national human rights infrastructure. In Burundi, too, human rights were crucial to the peaceful settlement of the internal conflict in that country.

35. With regard to the situation in the Democratic Republic of the Congo, his delegation fully supported the view of the joint mission, as contained in its report (E/CN.4/1998/64), and of the investigation team established by the Secretary-General that there should be further investigation of the massacres in that country. The Government should provide all possible facilities.

36. Human rights violations occurred in every country under the sun, but unfortunately the international community could not always find the right way to help in conflict situations. If the Commission were able to react quickly to a change in a given country situation, its working methods would be transformed. The Commission should not spend its time on resolutions castigating this or that country. Stress should be put on positive

developments. Double standards, whereby some countries were closely scrutinized while gross human rights violations went unnoticed in others, were completely unacceptable.

37. Mr. HYNES (Canada) said that, through acts of brutality and repression, some States placed themselves outside the community of shared values expressed by the Universal Declaration of Human Rights. One example was Iraq; another was Myanmar. Many others attempted to pick and choose which human rights standards to observe, like the Taliban regime in Afghanistan, which brazenly violated the human rights and fundamental freedoms of women, and Iran, with its relentless persecution of the Baha'is.

38. Respect for all human rights was the only truly durable foundation for development. It was inconsistent for countries to say that human rights were interrelated, interdependent and indivisible, as China did, or to speak of all human rights for all, as Indonesia did, when basic tenets such as freedom of expression and of association were not respected. In East Timor, a firm and lasting commitment to respect for all human rights and fundamental freedoms would be an essential foundation for any durable solution.

39. Some States, like the Sudan and Nigeria, had refused any real cooperation with United Nations mechanisms investigating human rights violations, as had Cuba, although the recent release there of a number of political prisoners and the easing of restrictions on religious freedom had been positive steps.

40. His delegation was encouraged by China's declaration that it intended to sign the International Covenant on Civil and Political Rights and urged swift action to ratify both it and the International Covenant on Economic, Social and Cultural Rights. Conversely, the attempt by the Democratic People's Republic of Korea to denounce the International Covenant on Civil and Political Rights was disturbing: that Government remained fully accountable under the Covenant.

41. Algeria was one of a number of countries where terrorist or guerrilla groups were responsible for grave violations of international humanitarian law. The need to combat such groups did not, however, lessen the need to prevent impunity for human rights violations committed by government forces or their paramilitary allies. The same applied to Colombia; the Government's willingness to work with the High Commissioner on addressing those and other human rights concerns was therefore welcome. In Sri Lanka, too, the Government must ensure that those committing human rights violations were brought to justice.

42. Some argued that human rights were a purely internal matter, but the error of that view was shown by the destabilizing effect that the 1994 genocide in Rwanda had had on a whole region, producing massive refugee flows and acting as a catalyst for conflict in neighbouring countries. Such tragedies stemmed directly from the failure of Governments and the international community to take decisive action to prevent human rights abuses. Respect for the rule of law was essential in dealing with those accused of human rights violations in Rwanda, whether civilians or soldiers.

43. In the Democratic Republic of the Congo, where his delegation was deeply concerned at recent incidents involving members of the Secretary-General's investigation team, progress towards democratization and establishing the rule of law would be a vital step towards regional stability. In Burundi, breaches of international humanitarian law by both the military regime and opposition forces had created a vicious spiral of violence which hindered the vital search for a negotiated solution. Full respect for human rights obligations would likewise be an essential component of any long-term solution in the Congo, in the aftermath of the violent overthrow of that country's democratically elected President.

44. In many ways the issues were the same in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia. Of particular concern were impunity for violations of human rights and humanitarian law and respect for minority rights. In Kosovo, discrimination against ethnic Albanians and the brutal tactics employed by the security forces had once again fanned the flames of ethnic tension and threatened the stability of the region.

45. The Universal Declaration remained as relevant and important as ever. Its principles provided the ultimate standard of legitimacy and effectiveness for Governments - a standard against which all, including that of Canada, were measured and sometimes found wanting. The ultimate test of the Commission's effectiveness would be progress in collectively addressing such shortcomings and securing universal realization of the principles of the Universal Declaration.

46. Mr. JAKUBOWKSI (Poland) said that public debate in the United Nations on human rights violations was not only a moral imperative but in many instances produced tangible results. His delegation spoke from experience. It was inappropriate to see such a debate as politicization or confrontation, although thought should continuously be given to how it should be conducted.

47. Human rights violations were perpetrated for various reasons. Not all were directly attributable to Governments and the debate should reflect that fact. Governments, for their part, should avoid using the Commission as a forum for addressing their domestic constituencies. In so doing, they only gave the enemies of human rights a pretext for accusations of double standards, ultimately weakening the Commission.

48. Totalitarian or authoritarian regimes were a case apart. In the former, an utter disregard for human rights was enshrined in every aspect of the system, as in the case of nazism and communism, including one of the few communist remnants, the Democratic People's Republic of Korea. In authoritarian States - Iraq, Nigeria and a number of others - the power of the ruling clique took precedence over the rights of citizens. In all such States, the regimes were unwilling to accept the principle of international cooperation, since it would lead to democracy, the best protection for human rights. Instead, they regarded public debate as interference in their domestic affairs, subversive activity, international conspiracy, imperialism or other attacks on their political stability. The debate, however, should continue documenting patterns of continuous violations and insisting on the right of international scrutiny.

49. His delegation deplored the fact that the trend towards democracy had made no headway in Belarus. As a Member State of the United Nations and of the Organization for Security and Cooperation in Europe (OSCE), that country should do everything necessary to comply with those organizations' principles in the sphere of human rights.

50. Public debate was also necessary to provide assistance in countries where Governments had little control over the lack of respect for human rights rooted in particular cultures, religions or economic circumstances. It should also expose and frustrate attempts by Governments to use such cultural aspects as a smokescreen for their own acts of omission or commission. Wherever feasible, programmes of technical assistance should be devised to alleviate the situation of countries which lacked the means to uphold human rights.

51. The international community had a particular duty to consider human rights violations in countries where there was a near total implosion of governmental authority, such as Somalia, Rwanda or Afghanistan, and should act decisively to uphold human rights standards there.

52. Armed conflicts required yet another approach. Side by side with political action and humanitarian assistance through the Security Council and other bodies, the Commission should reflect on the scope and effectiveness of international reaction to the conflict. In the Former Yugoslavia, for example, the delay in officially recognizing the right to self-determination of its constituent nations had arguably contributed to the prolongation of the conflict.

53. Mrs. FLÓREZ PRIDA (Cuba) said that, with agenda item 10, the Commission had reverted to the selective rhetoric that it had hitherto eschewed at its current session. Countries set themselves up as judges, criticizing some and exculpating others. Countries of the South, such as Cuba, were not, however, attracted by the democratic panacea of the North, where consumption was unsustainable and political systems were undergoing crisis. "The American dream" remained a tragic nightmare for vast sectors of the population of the United States, who suffered blatant discrimination. There were 36.5 million United States citizens living below the official poverty line; 16 per cent of white children and 41 per cent of black children were born in poverty.

54. The judicial and penitentiary system in the United States gave the most representative picture of the true human rights situation there. One in every 194 citizens was in prison; African-Americans, who amounted to 12 per cent of the population, formed 43 per cent of the prison population and 41 per cent of those executed.

55. In the European Union, which had tried to settle the problems of the South in a speech lasting 40 minutes, there were diverse violations that caused concern, including racism, xenophobia, violations of the rights of immigrants and minorities and unfair deportation policies.

56. Her delegation urged Japan to undertake a policy of closer cooperation with United Nations human rights mechanisms, particularly the Sub-Commission's Working Group on Contemporary Forms of Slavery.

57. In Canada, with which Cuba enjoyed a constructive dialogue on human rights issues, the impressive level of economic development had failed to benefit the country's indigenous peoples.

58. Cuba was proud of its democracy, which ensured every Cuban direct participation in the decision-making process, but it did not seek to make its experience a doctrine or a model to be followed. It merely claimed the same respect that it extended to the models it disliked. The anti-Cuban campaign on human rights and democracy was directed by the United States, which sought to prove that the Cuban revolution was incompatible with the so-called values of liberal democracy. Once the blockade was lifted, serious disagreements would still linger, but at least the Commission would not engage in the annual sterile exercise of adopting a resolution condemning Cuba.

59. Mr. NZE (Congo) said that the human rights situation in the Congo must be appreciated in the context of the past five years of its political history. The process of democratization initiated by President Sassou-Nguesso had led to elections in 1991 but the hopes for the democratic process were dashed when, after Mr. Lissouba had come to power, the country had been plunged into confrontation and civil war. In 1994, at the Forum on the Culture of Peace, many human rights violations committed by the former regime had been sanctioned. The persistence of such violations by the Government, even though it had been democratically elected, had brought the Congo into another civil war from June to October 1997. Failing a peaceful resolution of the crisis, military action had become the only solution.

60. The armed conflict had caused massive violations of human rights and, unfortunately, the end of the armed conflict had not put an end to all violations. The continuing violations were, however, the work of some elements of former private militia or armed criminal bands. They sometimes also resulted from police action taken in self-defence.

61. In an effort to restore the rule of law, his Government had released several individuals improperly held in police stations. It agreed with the Special Rapporteur that the perpetrators of human rights violations must be identified and brought to trial and also intended to compensate the families of victims. A mechanism had been established to identify and assist the victims of the two civil wars.

62. In the aftermath of the war, a Government of national unity had been established comprising all the components of political life, including the political parties that had supported the former President. A Forum for Unity, Democracy and Reconstruction had been held in January 1998 with the objective of national reconciliation and renewal of the democratic process. No political parties had been dissolved; freedom of opinion and expression were guaranteed, human rights NGOs operated freely and freedom of movement was respected even in the case of former leaders who had decided to remain in the Congo.

63. The building of a State subject to the rule of law, and the promotion and protection of human rights, were the major concerns of his Government in the current critical phase of national reconstruction, as being the basic

prerequisites for durable peace and sustainable development. It requested the assistance of the international community in support of its efforts.

64. Mr. EL NASRI (Sudan) said that confrontational attitudes in dealing with human rights issues could discourage the process of protection and promotion of human rights and make it difficult to build the consensus necessary for their full realization. In Sudan, the signing of the peace agreement in April 1997 and of the Nuba Mountain and Fashoda Peace Agreements constituted a milestone in the pursuit of a lasting and peaceful solution to the conflict in southern Sudan by granting the right to self-determination to the people of the south and ensuring their fundamental rights. Another milestone was the new constitution, which would contain a bill of rights as one of its most important features.

65. His delegation believed that the role of NGOs in the work of the Commission should be re-evaluated. It was becoming a regular practice for them to use the Commission to attack certain States for their own subjective purposes. A case in point was Christian Solidarity International, which had used the Commission to incite hatred among the various religions practised in the Sudan by circulating unwarranted allegations of slavery. Such organizations should be held accountable for what they said in the Commission.

66. Ms. KUNADI (India) said that the current agenda item was of the utmost importance because it focused attention on situations where human rights and fundamental freedoms were being violated. Clearly, the Commission's success in addressing the item had a crucial bearing on its credibility and effectiveness. The approaches adopted in the recent past, however, must be re-evaluated. The selectivity resulting from politicization and the pressures generated by condemnation had brought acrimony and confrontation to the Commission's discourse, leading neither to effective solutions nor to cooperation between the members of the international community in defence of human rights.

67. States must certainly be held accountable for their actions but, if the purpose was to protect the victims of human rights abuses, better results might be achieved by encouraging self-criticism and positive change and by offering assistance to build the national capacity to sustain democracy and the rule of law. The annual ritual of handing out report cards had not produced the desired results.

68. Despite its complexity and diversity, India, 50 years after attaining independence provided an example of democratic organization of a highly pluralistic society. Its federal system and secular polity had evolved to accommodate that diversity, as demonstrated by the steady growth of civil society, an independent and pluralistic media and an independent judiciary. An essential characteristic of its experience had been the conviction that development could not take place at the expense of democracy. Social justice, human rights and popular participation must be integrated into the development framework.

69. Her Government did not pretend that India had been able to solve all its problems in the area of human rights, and some specific economic and social grievances had, indeed, resulted in violence. Her Government believed,

however, that there could be no justification in democracies for politically motivated extremism and violence, and it had attempted to address the underlying causes thereof through dialogue and the search for political solutions.

70. Her delegation believed that the Commission could best discharge its mandate by emphasizing an integrated approach towards human rights as called for in the Vienna Declaration, by encouraging self-criticism and exchange of experience and best practices, by devoting greater attention to national capacity-building, promoting understanding and a culture of human rights, welcoming pluralism and recognizing the critical linkage between democracy, development and human rights.

71. Mr. ZAKI (Pakistan) said that the annual consideration of human rights violations throughout the world was a sobering exercise, as it brought home with special force the gulf between human rights rhetoric and reality. It was especially disturbing that the worst violators of human rights were not individuals or groups operating outside the law, but States which ostensibly subscribed to international human rights conventions. A shared characteristic of such States was that they were occupying powers, determined to suppress peoples' right to self-determination.

72. The international community must address those violations and provide urgent assistance to the victims of such State policies. The violations in question had direct and dangerous consequences for regional peace and stability, and the credibility of human rights institutions and of the Commission itself was at stake. The Commission's detractors argued, with some justification, that the time and resources allocated to its work could not be warranted if it refused to confront the most serious violators of human rights for reasons of political expediency.

73. To remedy that situation, careful monitoring of human rights violations by occupying States must continue and such violations must be catalogued in detail and widely publicized. The exposure of their brutality might eventually result in moral outrage among their own people, thereby creating a political basis for the reversal of such policy. The international community must also exert diplomatic and economic pressure on the occupying States.

74. To take an example from his own region, almost all the principles of humanitarian law and human rights had been violated since 1990 in Indian-occupied Kashmir. Having given numerous examples of such violations, he called on the Commission to undertake an impartial investigation of the human rights violations in Jammu and Kashmir to determine whether they qualified as crimes against humanity. It would be useful if visits could be paid to the territory by the High Commissioner for Human Rights, the Special Rapporteurs on summary execution, torture, arbitrary detention and violence against women and the Working Group on Disappearances so that they could make a first-hand assessment of the situation. For its part, India must implement all the relevant Security Council resolutions. His delegation hoped that the dialogue initiated by the Prime Minister of Pakistan would be resumed and that the new Indian Government would respond positively by halting human rights violations in occupied Jammu and Kashmir.

75. Mr. POLICARPO (Indonesia) said that a balanced and objective consideration of the human rights situation in any particular country should take into account the progress that had been made. Moreover, no fair evaluation would be possible without taking into account the constraints on the developing countries. In that connection, he thanked those countries and mechanisms with which his Government had developed cooperation in the field of human rights. That cooperation, based on mutual respect and dialogue, had been a constructive force in the protection and promotion of those rights.

76. Numerous references had been made by representatives of States and NGOs to the situation of human rights in his country, giving the impression that violations were widespread there. While it would be preposterous to assert that human rights violations never occurred, his Government always made every effort to bring the perpetrators of such violation to justice. His Government's commitment to protect and promote human rights throughout the country, including his own province of East Timor, was genuine. It was not its policy to abuse or discriminate against any group on any grounds.

77. Since the Commission's fifty-third session, there had been a disturbing rise in the number of random killings, acts of terror, intimidation and extortion carried out by FRETILIN/FALINTIL separatists against the population of East Timor. There was a rising trend towards militancy and radicalization in the separatists' activities, which were intended to provoke reactions from the authorities and to intensify the conflict in order to create disorder and chaos which, they assumed, would aid their illusory political cause. Law enforcement and protection of human rights were two sides of the same coin, and his Government would continue to do all it could to ensure public safety and fight those who threatened it.

78. It was extremely disturbing that the increase in separatist violence was ignored by Portugal. Most, if not all, of the information contained in the report of the Secretary-General on the situation in East Timor (E/CN.4/1998/58) was based on unverified and second-hand information. The allegation that Indonesia was endeavouring to overwhelm East Timor with non-East Timorese people was another example of a deliberate attempt to conceal the truth. The population of East Timor consisted of 94 per cent native East Timorese and 6 per cent non-natives. Indonesia had never curtailed the right of freedom of movement for its citizens, including movement to and from East Timor.

79. The statement made to the Commission on behalf of the European Union had referred to a draft resolution on East Timor which the Union was to submit; such a draft resolution was uncalled for, and he challenged the European Union to discuss the situation of human rights in East Timor with himself and other colleagues who lived in the province in order to receive first-hand information on the subject.

80. Mr. CAMPBELL (Observer for Australia) said that good governance created the environment in which civil and political rights could be better protected. It also promoted an environment for sound economic management and sustainable use of resources to increase prosperity, which were important conditions for the protection of economic, social and cultural rights. The top priority for Governments should be practical efforts that could directly improve the human

rights situation on the ground. International cooperation and, where necessary, constructive comment also had an important role to play in encouraging States to fulfil their international obligations.

81. His Government remained concerned about the situation throughout Afghanistan, and particularly the strict social policies imposed by the Taliban which had a negative impact on the human rights of all Afghans, particularly women and girls. It also shared the profound concern of the international community about the alarming situation in Algeria, welcomed the Algerian Government's assurances that it was in the process of consolidating the rule of law and the protection of human rights, and urged it to invite special rapporteurs to visit Algeria before the Commission's fifty-fifth session.

82. There had been some positive, albeit modest, developments in Myanmar, such as the decision by the State Law and Order Restoration Council to meet the Chairman of the National League for Democracy (NLD) in July 1997 and to allow the NLD to hold a congress in September 1997, the first such meeting to take place unhindered for seven years. Recently, the State Peace and Development Council had allowed the Minister for Foreign Affairs of Malaysia to see Daw Aung San Suu Kyi. Those were definite steps forward, but they had taken place against the background of continuing repression of the NLD.

83. China had made welcome progress in the realization of economic and social rights, democratization of local government structures and the implementation of legal reforms. His Government welcomed China's recent signing of the International Covenant on Economic, Social and Cultural Rights and its stated intention to sign the International Covenant on Civil and Political Rights as well as the number of dialogues that China was conducting with other countries on the subject of human rights.

84. His Government was encouraged by a number of positive developments in the observance of human rights in Indonesia. That country's National Human Rights Commission had continued to investigate and comment openly on instances of human rights abuse; a military handbook on human rights for use by the military operating in Irian Jaya appeared to have resulted in an improvement in the civil rights situation there; and the endorsement by the People's Consultative Assembly of a broad outline of State policy from 1998 to 2003 had made substantial reference to human rights and the need for State policy to respect them. It was to be hoped that there would also be improvements in the situation of human rights in East Timor.

85. Until the recent economic crisis, Indonesia had made substantial advances in guaranteeing economic and social rights, and his Government hoped that the Indonesian security authorities would exercise appropriate restraint in the management of social unrest, demonstrations and other expressions of popular opinion during the current crisis, and ensure that all those involved were dealt with in accordance with the law and due process.

86. His Government supported the efforts of the Secretary-General, the United States of America, the European Union and the Commonwealth to find a lasting and peaceful solution to the Cyprus question that would protect the human rights of all Cypriot people. The re-emergence of ethnic tension in

the Balkans was a matter of deep regret, and his Government joined others in urging all the parties in Kosovo to show restraint and refrain from further violence.

87. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that, since he had taken office in August 1997, President Khatami had launched a number of initiatives to consolidate democratic institutions, provide grounds for more active civil and political participation, reinforce the rule of law, promote women's rights, foster national mechanisms for the protection and promotion of human rights and fundamental freedoms, and promote freedom of expression. Like other countries, the Islamic Republic of Iran had a long way to go before it achieved the objective of full realization of all human rights for all, but it had done a great deal and was determined to continue to build on the progress achieved. The response to that progress should be one of appreciation and encouragement; anything less would demonstrate that political and economic considerations had supremacy over concern for human rights.

88. Mr. GOMES (Observer for Portugal) said that all available, credible and independent sources continued to report serious violations of human rights in East Timor. Indonesia's failure to comply with the Commission's recommendations had led to a worsening of the human rights situation in the territory, and recent developments in Indonesia had raised fears about a further deterioration combined with increasing hardship caused by the economic crisis.

89. Commission resolution 1997/63 called upon the Government of Indonesia to release East Timorese political prisoners, to ensure that East Timorese in custody were treated humanely and that their rights were fully respected; to provide greater access to East Timor by humanitarian and human rights organizations and by the international media; and to cooperate with the Commission's thematic mechanisms.

90. Indonesia had failed to implement any of those measures. Despite appeals from the international community, it had made no progress in releasing East Timorese political prisoners; East Timorese in military or police custody continued to be subjected to torture and ill-treatment and were, as a matter of routine, denied access to legal counsel, medical treatment and their families. Credible international organizations continued to be barred from the territory, and access by foreign journalists remained severely restricted; the Indonesian authorities had not yet responded to the request to visit East Timor made in May 1997 by the Special Rapporteur on the question of torture. Other measures recommended by special rapporteurs and by the High Commissioner for Human Rights remained unimplemented, including the reduction of the Indonesian military presence in and the limitation of Indonesian migration to East Timor.

91. The international community could no longer turn a blind eye to the Indonesian Government's uncooperative attitude. The Commission must once again try to persuade Indonesia that a change in its policy towards East Timor and respect for the human rights of its people were overdue and could not but contribute to stability in the region as a whole.

92. Mr. HASSAÏNE (Observer for Algeria) said that his country adhered to almost all international human rights instruments, including the optional protocols, and regularly presented its periodic reports to the various Committees. Algeria was not confronted with a crisis of human rights but with the phenomenon of terrorism, which was an out-and-out negation of human rights, the most sacred of which was the right to life. His Government categorically rejected manoeuvres aimed at legitimizing or explaining the actions of terrorist groups.

93. The protection of persons and of their property by the public security forces was a constitutional prerogative of the State in all political systems. Terrorism constituted a direct threat to all democracies, especially those of countries in transition. It was a major challenge to the international community because it endangered international peace and security; that was why it should not be dealt with selectively according to the countries it affected and should be condemned unequivocally.

94. Turning to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1998/68 and Add.1-3), he said that Mr. Ndiaye and Ms. Coomaraswamy, the Special Rapporteur on violence against women, had been the only special rapporteurs so far to have raised the question of the responsibility of non-State actors in human rights violations. That approach should be developed and taken into account by the other United Nations mechanisms.

95. He recalled that, in 1997, only one case had been transmitted to the Algerian authorities by the Special Rapporteur on extrajudicial, summary or arbitrary executions, and it had received a reply. It was regrettable, however, that the Special Rapporteur still seemed uncertain as to the identity of those responsible for the massacres in Algeria when in fact they were regularly claimed by the terrorist groups themselves; if he was in any doubt he should have sought information from the Algerian Government.

96. With respect to the Special Rapporteur's observation that there was a need for effective mechanisms to investigate the circumstances of massacres, he said that the legal system was involved on each occasion, investigations were launched and the national press reported the trials of those arrested. His delegation was ready, as always, to engage in dialogue and cooperation with the United Nations human rights mechanisms in a calm and transparent manner, away from the gaze of the media and out of reach of the manoeuvrings engaged in by some people.

97. Mr. BEKIC (Observer for Croatia) said that, despite excellent cooperation, which had remained constant and constructive and had provided a fruitful dialogue, his Government had some concern regarding the nature of the mandate of the Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia. The reporting mechanism had proved to be much too slow, especially when global communications rendered possible the almost immediate exchange of information. As a result, important differences had frequently arisen between the facts as presented in reports and the current situation in a country and recommendations had already been implemented by the time a report was published.

98. The evolution of the situation of human rights in Croatia had not been sufficiently taken into account when the mandate was being assessed: the mandate had been established as a response to the gross violations of human rights and international humanitarian law resulting from the aggression against the Republic of Croatia and Bosnia and Herzegovina. Consequently, the benefits to be derived from its continued application in that uniform manner had to be questioned, when the situation of human rights had changed drastically in the countries under the mandate as a result of a different tempo of development of democratic principles and institutions.

99. In her final report, the Special Rapporteur noted positive developments in Croatia and the question was whether the situation there should be considered in the same manner as that in the other countries under the mandate. Croatia was subjected to numerous monitoring mechanisms, which had culminated in an obvious overlapping of mandates and a great increase in bureaucratic paperwork, a practice that was not conducive to international efforts to reduce the duplication of efforts.

100. His Government was in favour of continued cooperation with the United Nations in the field of human rights but on the basis of a different mandate. Instead of monitoring, it would appreciate technical assistance and cooperation in the field of human rights, as recommended in the Special Rapporteur's report, which would strengthen the practical dimensions of its adherence to human rights and support various national institutions that had already been established for the purpose. He hoped that that approach would be reflected in the Commission's resolution.

101. Mr. KIM Song Chol (Observer for the Democratic People's Republic of Korea) said that many speakers had expressed the desire for a productive dialogue and cooperation at the current session of the Commission and it was deplorable that the debate on human rights had still been fraught with slander, antagonism, confrontation and violation of the sovereignty of other States. The European Union had spent 40 minutes selectively attacking 37 countries one by one: all of them developing countries targeted because they were independent and did not obey the countries of the West. The East-West cold war had been replaced by a North-South human rights cold war.

102. Confrontation based on selectivity and double standards, which was unacceptable, had compelled his country to withdraw from the International Covenant on Civil and Political Rights. Though some alleged that the withdrawal was not legally possible, it was in fact an indisputable exercise of his country's sovereign rights. The withdrawal did not indicate an objection to the Covenant itself or a denial of its provisions. The only way to resolve the withdrawal issue fairly was for the Western countries that had brought it about to change their attitude.

103. Several States had expressed their desire to see the question of withdrawal from the Covenant reconsidered because the process by which the resolution had been adopted against his country had been an unjust one. The issue could be settled in a cooperative spirit provided there was no provocation. It was time to end the practices of a special group which violated the sovereignty of others, and to adhere to the principle of equality and impartiality in human rights. In that connection, his delegation

categorically rejected the allegation made against his country by the representative of Poland as totally groundless. It could have been made only by someone who had been brainwashed or bribed by forces hostile to the Democratic People's Republic of Korea.

104. Mr. LAMDAN (Observer for Israel), referring to a decision regarding southern Lebanon adopted recently by his country's Ministerial Committee for National Security, said it was a serious initiative and not a diversionary tactic. It signalled Israel's willingness to withdraw in short order from southern Lebanon once it knew that international peace and security had been restored in accordance with the provisions of paragraph 3 of Security Council resolution 425 (1978). The decision stood on its own; it did not, for example, link the withdrawal to a peace agreement with Lebanon, and it was not at the expense of anyone or anything.

105. The international community could help in that endeavour by assisting the Government of Lebanon to ensure the return of its effective authority in southern Lebanon, thereby obviating the need for an international peacekeeping force there. The Lebanese army had dismantled every other militia in Lebanon and, in Israel's judgement, it could also dismantle the Hizbollah in the south. It would be constructive if the Commission decided simply to take note of the draft resolution on the subject, instead of putting it to a vote.

106. Mr. SORABJEE (Special Rapporteur on the situation of human rights in Nigeria), responding to the statement made by the representative of Nigeria, said that he had been looking forward to constructive and substantive comments and criticism regarding his report (E/CN.4/1998/62), but unfortunately none of the issues relating to human rights violations had been addressed. Before submitting his report he had specifically sought the Nigerian Government's version of and its point of view on several alleged human rights violations, but there had been no response and repeated requests by him to visit Nigeria had not been granted.

107. Instead of meeting with facts and figures the conclusions he had reached in his report, on the basis of documents whose authenticity could not be impeached, the representative of Nigeria had stated that the report had been written for him by human rights groups in London and Geneva. That allegation was utterly false: the report had been written by him alone in New Delhi, and its language, style and content were entirely his own. To check certain statements and footnotes, he had corresponded with the human rights officer assigned to his mandate by the Office of the High Commissioner for Human Rights, and with no one else.

108. He had compiled his report with a full sense of responsibility for his mandate, and had not performed any "hatchet job"; an unworthy allegation that should not have been made. No human being was infallible, and he would have welcomed constructive criticism, but defamatory statements did not advance the matter.

The meeting rose at 1.05 p.m.